

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	
	§	
VS.	§	CRIMINAL NO. 4:17CR192
	§	
ALFRED PICK	§	

**REPORT AND RECOMMENDATION ON
DEFENDANT'S COMPETENCY TO STAND TRIAL**

Pursuant to 28 U.S.C. § 636(b) and the Local Rules for the United States District Court for the Eastern District of Texas, this criminal proceeding is before the undersigned United States Magistrate Judge.

On October 23, 2017, in open court, Defendant's counsel made an Oral Motion for Psychiatric Exam of Defendant Alfred Pick seeking a pre-trial psychiatric examination, pursuant to 18 U.S.C. §§ 4241, at an appropriate Bureau of Prisons facility, and that a psychiatric report of findings be filed with the Court consistent with 18 U.S.C. §§ 4247. The Government did not oppose the Oral Motion. The Court granted the Oral Motion on October 25, 2017 [Dkt. 13]. Defendant was subsequently evaluated by Dr. Jeremiah Dwyer, Ph.D. The Court has received the report from the Bureau of Prisons, and copies have been furnished to and reviewed by each of the Assistant United States Attorney and defense counsel.

A competency hearing was conducted on March 5, 2018, before U.S. Magistrate Judge Christine A. Nowak. At the hearing, Defendant appeared in court with his counsel, William David Cox. Defendant was given the opportunity to present evidence and call witnesses. Defendant did not offer any witnesses or evidence. Moreover, Defendant did not present any objections to the report findings, including specifically Dr. Dwyer's opinion on competency. The Government also did not object to the report findings. In addition, neither party objected to the admissibility of the

report detailing the results and findings; therefore, the Court admitted it into evidence under seal [Dkt. 21].

Dr. Dwyer's report concludes, "there is no objective evidence to indicate that Mr. Pick currently suffers from signs or symptoms of a major mental disorder, such as an affective disorder (e.g. Bipolar Disorder), psychotic disorder (e.g., Schizophrenia), or an organic disorder, that would impair his present ability to understand the nature and consequences of the court proceedings against him, or his ability to properly assist counsel in his defense."

The undersigned concludes that Defendant is not mentally incompetent and is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense. Defendant has a rational and factual understanding of the proceedings against him, and has sufficient present ability to consult with his attorney with a reasonable degree of rational understanding. 18 U.S.C. §4241(d).

RECOMMENDATION

For the foregoing reasons, the Court recommends that Defendant be found competent to stand trial because he understands the nature and consequences of the proceedings against him and is able to assist in his defense. See 18 U.S.C. § 4241. It is further recommended that the speedy trial time be excluded from October 23, 2017 (the date the oral request for psychiatric examination was made), until the date on which the District Judge signs the order adopting this report and recommendation.

Both Parties waived the fourteen (14) day objection period.

SIGNED this 5th day of March, 2018.



Christine A. Nowak
UNITED STATES MAGISTRATE JUDGE